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Counsel for Debtor and Debtor-in-Possession
Mr. Tortilla, Inc.

FILED & ENTERED

JUL 09 2024

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY fisherl DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

SAN FERNANDO VALLEY DIVISION

In re:) CASE NO.: 1:24-bk-10228-VK
Mr. Tortilla, Inc.,) Chapter 11
Debtor and Debtor-in-Possession.) **INTERIM ORDER GRANTING
DEBTOR'S MOTION FOR ORDER
AUTHORIZING CONTINUED USE
OF CASH COLLATERAL**
Continued Hearing:
Date: June 27, 2024
Time: 1:00 p.m.
Place: Courtroom 301 [ZoomGov and in-
person]
21041 Burbank Blvd., 3rd Floor
Woodland Hills, CA 91367

1 A continued hearing took place at the above time and place to consider the Motion
2 for Order Authorizing Continued Use of Cash Collateral (the “Cash Collateral Motion”)
3 [docket nos: 166, 168, 177] filed by Mr. Tortilla, Inc., the Debtor and Debtor-in-
4 Possession herein (the “Debtor”). Appearances are noted on the record. The Court
5 having considered the Cash Collateral Motion, the Official Committee of Unsecured
6 Creditors’ Limited Objection to Cash Collateral Motion [docket no.: 185], Partial
7 Objection to Debtor’s Cash Collateral Motion filed by Creditor Sand Park Capital, LLC
8 [docket no.: 188], Committee’s Limited Statement in Support of Sand Park Capital,
9 LLC’s Partial Objection [docket no.: 190], Debtor’s Reply to Committee’s and Sand
10 Park’s Objections [docket no.: 203], and good causing appearing:
11

12 **HEREBY ORDERED** that:

13 1. Subject to the provisions of this Order, the Debtor’s Cash Collateral Motion
14 is granted on an interim basis through August 1, 2024.

15 2. Debtor is authorized to use cash collateral, as that term is defined by 11
16 U.S.C. § 363(a) (“Cash Collateral”), in accordance with the budget attached to Debtor’s
17 Cash Collateral Motion, as supplemented by the budget filed on May 13, 2024 [docket
18 no.: 177], as further amended in accordance with an order from this Court resolving the
19 *Statement of Objection of Official Committee of Unsecured Creditors to Debtors Notice*
20 *of Setting/Increasing Insider Compensation and Request for Hearing* [Dkt. No. 209].
21

22 3. To satisfy the right of the U.S. Small Business Administration (the “SBA”)
23 to adequate protection of its interest in the Debtor’s Cash Collateral, the SBA is hereby
24 granted, pursuant to Section 361, 363, and 552(b) of the Bankruptcy Code, a valid,
25 attached, choate, enforceable, perfected, post-petition security interest and lien in and
26 against all post-petition assets of the Debtor of the same character and type, to the same
27

1 nature, extent, validity, and priority that existed prepetition, and to the extent of
2 diminution in value of SBA's collateral caused by the Debtor's use of Cash Collateral.
3 Debtor shall, as further adequate protection of the SBA's interest in Cash Collateral,
4 continue to pay SBA monthly adequate protection payments in the amount of \$1,237.00,
5 due by the 1st day of every month until further order of this Court.

6 4. To satisfy the right of Amazon Capital Services, Inc. ("ACS") to adequate
7 protection of its interest in the Debtor's Cash Collateral, ACS is hereby granted, pursuant
8 Section 361, 363, and 552(b) of the Bankruptcy Code, a valid, attached, choate,
9 enforceable, perfected, post-petition security interest and lien in and against all post-
10 petition assets of the Debtor of the same character and type, to the same nature, extent,
11 validity, and priority that existed prepetition, and to the extent of diminution in value of
12 ACS's collateral caused by the Debtor's use of Cash Collateral. Debtor shall, as further
13 adequate protection of ACS's interest in Cash Collateral, continue to pay ACS monthly
14 adequate protection payments in the amount of \$5,000.00, which payment will be
15 deducted by ACS from Debtor's seller account and applied toward ACS's loan balance.

16 5. To satisfy the right of Sand Park Capital, LLC (the "Sand Park") to
17 adequate protection of its interest in the Debtor's Cash Collateral, Sand Park is hereby
18 granted, pursuant to Section 361, 363, and 552(b) of the Bankruptcy Code, a valid,
19 attached, choate, enforceable, perfected, post-petition security interest and lien in and
20 against all post-petition assets of the Debtor of the same character and type, to the same
21 nature, extent, validity, and priority that existed prepetition, and to the extent of
22 diminution in value of Sand Park's collateral caused by the Debtor's use of Cash
23 Collateral.

24 6. In addition, ACS, the SBA, and Sand Park shall hold allowed
25 administrative claims under Section 507(b) of the Bankruptcy Code with respect to the
26 adequate protection obligations of the Debtor to the extent that the replacement liens and
27 post-petition collateral do not adequately protect the diminution in value of the interests

1 of the SBA, ACS, and Sand Park in their prepetition collateral. Such administrative
2 claims shall be junior and subordinate only to any superpriority claim of the kind ordered
3 by the Court and specified in Section 364 of the Bankruptcy Code. The administrative
4 claims shall be payable from and have recourse to all prepetition and post-petition
5 property of the Debtor and all proceeds thereof. The liens on post-petition collateral shall
6 be in addition to any prepetition liens held by the SBA, ACS, and Sand Park and shall
7 remain in full force and effect notwithstanding any subsequent conversion or dismissal of
8 this case.

9 7. This Interim Order shall be deemed to constitute a security agreement under
10 the applicable provisions of the Uniform Commercial Code (“UCC”) in effect, and the
11 adequate protection liens granted by this Interim Order on post-petition collateral shall be
12 valid, perfected, and enforceable security interests and liens on the property of the Debtor
13 and the Debtor’s estate without further filing or recording of any document or instrument
14 or any other action, but only to the extent that ACS, the SBA, and Sand Park respectively,
15 have valid and perfected security interests prior to the Debtor’s petition date. Such
16 adequate protections liens shall be enforceable against the Debtor and all other persons
17 and parties, including without limitation any subsequent Trustee (if appointed under
18 Chapter 7 or Chapter 11 of the Bankruptcy Code), by operation of law and immediately
19 upon entry of this Interim Order. The adequate protection liens granted by this Interim
20 Order on post-petition collateral shall not extend to the proceeds of any avoidance actions
21 by the Debtor or the estate pursuant to section 544, 547, 548, 549, or 550 of the
22 Bankruptcy Code.

23 8. The Debtor will provide the Official Committee of Unsecured Creditors,
24 ACS, SBA, and Sand Park with an accounting, on a monthly basis, of all revenue,
25 expenditures, and collections with description of any variances from the budget by way of
26 filing monthly operating reports with the Court and providing a variance report to the
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1 Official Committee of Unsecured Creditors, the ACS, SBA, and Sand Park, within seven
2 days thereafter.

3 9. Nothing contained herein shall be deemed a waiver by ACS, the SBA, or
4 Sand Park from seeking further or additional adequate protection of their collateral,
5 asserting objections to the Debtor's further use of Cash Collateral, or pursuing any other
6 rights or remedies available to them under law or equity.

7 10. Nothing contained herein shall prevent a creditor or other party in interest
8 from contesting the validity, perfection and enforceability, or priority of a secured party's
9 liens, or from raising any defenses, offsets, deductions or counterclaims thereto.

10 11. If any or all of the provisions of this Interim Order are hereafter
12 modified, vacated or stayed by any subsequent order of this Court or any other
13 court, such stay, modification or vacation shall not affect the validity or enforceability
14 of any lien or priority authorized or created hereby prior to the effective date of such
15 modification, stay, vacation or final order to the extent that said lien or priority is valid,
16 perfected, enforceable and otherwise non-avoidable as of the Petition Date. The
17 validity and enforceability of all liens and priorities authorized or created in this Interim
18 Order shall survive the conversion of this case to a proceeding under Chapter 7 of
19 the Bankruptcy Code or the dismissal of this proceeding.

20 12. Payment of the insider compensation and any related benefits is to be made
21 in compliance with the Order Resolving the Objection of the Official Committee of
22 Unsecured Creditors to the Debtor's Notices of Setting/Increasing Insider Compensation
23 [docket no.: 209].

24 13. Payment of professional fees are subject to application and approval by this
25 Court. All secured creditors reserve their rights to object to the use of cash collateral for
26 the payment of professional fees.

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14. A continued hearing on the Cash Collateral Motion will take place on August 1, 2024 at 1:00 p.m. in Courtroom 301 of the above-captioned court.

15. July 15, 2024 is the deadline for the Debtor to file and serve a revised cash collateral budget that covers the period through September 30, 2024.

APPROVED AS TO FORM:

E. MARTIN ESTRADA
United States Attorney
DAVID M. HARRIS
Assistant United States Attorney
Chief, Civil Division
JOANNE S. OSINOFF
Assistant United States Attorney
Chief, Complex and Defensive Litigation
Section

By: _____
ELAN S. LEVEY
Assistant United States Attorney
Attorneys for U.S. Small Business
Administration

K&L GATES LLP

Brandy A. Sargent
Counsel for Amazon Capital Services, Inc.
And Amazon.com Services LLC

CORRIGAN & MORRIS LLP

Brian T. Corrigan
Counsel for Secured Creditors

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2 Cedar Advance, LLC
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6 ORRICK, HERRINGTON & SUTCLIFFE LLP
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Mark Franke
Brandon Batzel
Counsel for The Official Committee of
Unsecured Creditors

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Date: July 9, 2024



Victoria S. Kaufman
United States Bankruptcy Judge

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SOFYA DAVTYAN (State Bar # 259544)
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Chapter 11

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HEREBY ORDERED that:

1. Subject to the provisions of this Order, the Debtor’s Cash Collateral Motion is granted on an interim basis through August 1, 2024.

2. Debtor is authorized to use cash collateral, as that term is defined by U.S.C. § 363(a) (“Cash Collateral”), in accordance with the budget attached to Debtor’s Cash Collateral Motion, as supplemented by the budget filed on May 13, 2024 [docket no.: 177], as further amended in accordance with an order from this Court resolving the *Statement of Objection of Official Committee of Unsecured Creditors to Debtors Notice of Setting/Increasing Insider Compensation and Request for Hearing* [Dkt. No. 209].

3. To satisfy the right of the U.S. Small Business Administration (the “SBA”) to adequate protection of its interest in the Debtor’s Cash Collateral, the SBA is hereby granted, pursuant to Section 361, 363, and 552(b) of the Bankruptcy Code, a valid, attached, choate, enforceable, perfected, post-petition security interest and lien in and against all post-petition assets of the Debtor of the same character and type, to the same

1 nature, extent, validity, and priority that existed prepetition, and to the extent of
2 diminution in value of SBA's collateral caused by the Debtor's use of Cash Collateral.
3 Debtor shall, as further adequate protection of the SBA's interest in Cash Collateral,
4 continue to pay SBA monthly adequate protection payments in the amount of \$1,237.00,
5 due by the 1st day of every month until further order of this Court.

6 4. To satisfy the right of Amazon Capital Services, Inc. ("ACS") to adequate
7 protection of its interest in the Debtor's Cash Collateral, ACS is hereby granted, pursuant
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10 petition assets of the Debtor of the same character and type, to the same nature, extent,
11 validity, and priority that existed prepetition, and to the extent of diminution in value of
12 ACS's collateral caused by the Debtor's use of Cash Collateral. Debtor shall, as further
13 adequate protection of ACS's interest in Cash Collateral, continue to pay ACS monthly
14 adequate protection payments in the amount of \$5,000.00, which payment will be
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20 against all post-petition assets of the Debtor of the same character and type, to the same
21 nature, extent, validity, and priority that existed prepetition, and to the extent of
22 diminution in value of Sand Park's collateral caused by the Debtor's use of Cash
23 Collateral.

24 6. In addition, ACS, the SBA, and Sand Park shall hold allowed
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26 adequate protection obligations of the Debtor to the extent that the replacement liens and
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Official Committee of Unsecured Creditors, the ACS, SBA, and Sand Park, within seven days thereafter.

9. Nothing contained herein shall be deemed a waiver by ACS, the SBA, or Sand Park from seeking further or additional adequate protection of their collateral, asserting objections to the Debtor's further use of Cash Collateral, or pursuing any other rights or remedies available to them under law or equity.

10. Nothing contained herein shall prevent a creditor or other party in interest from contesting the validity, perfection and enforceability, or priority of a secured party's liens, or from raising any defenses, offsets, deductions or counterclaims thereto.

11. If any or all of the provisions of this Interim Order are hereafter modified, vacated or stayed by any subsequent order of this Court or any other court, such stay, modification or vacation shall not affect the validity or enforceability of any lien or priority authorized or created hereby prior to the effective date of such modification, stay, vacation or final order to the extent that said lien or priority is valid, perfected, enforceable and otherwise non-avoidable as of the Petition Date. The validity and enforceability of all liens and priorities authorized or created in this Interim Order shall survive the conversion of this case to a proceeding under Chapter 7 of the Bankruptcy Code or the dismissal of this proceeding.

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